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**HF 6** – Sexual Exploitation by a School Employee (LSB1100HV)  
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Fiscal Note Version – As Amended by House Judiciary Committee Amendment **H-1023**  
Requested by Representative Chip Baltimore

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**Description**

**House File 6** as amended by **H-1023** amends Iowa Code section **709.15**(1)(f) to broaden the criminal offense of sexual exploitation by a school employee to include all school district employees, including full-time, part-time, substitute, certain contract employees, and certain volunteers.

**Background**

**Correctional and Fiscal Information**

- Current law provides for a graduated system of penalties for sexual exploitation ranging from a serious misdemeanor to a Class D felony, depending on the circumstances of the offense.
- There were 19 charges disposed in FY 2014 for various levels of sexual exploitation by a counselor or school employee. Of these, 11 were either dismissed or acquitted while five charges resulted in a conviction. Several defendants had multiple charges. There were four charges that resulted in convictions as charged at the original level of sexual exploitation. All four convictions were for Class D felonies. The overall conviction rate for any type of sexual exploitation is 26.3%.
- There were two offenders convicted of Class D felonies in FY 2014.
- Offenders sentenced under the provisions of Iowa Code chapter **709** are subject to sentencing enhancements because they are sex offenders. These offenders are subject to the requirements of the Sex Offender Registry (**SOR**) for at least 10 years per Iowa Code chapter **692A**. The SOR is administered by the Department of Public Safety (**DPS**). See the **Legislative Guide, Sex Offender Registry Law** published by the Legislative Services Agency (LSA) in November 2014 for additional information.
- Sex offenders are also subject to the Special Sentence imposed under Iowa Code chapter **903B**. Offenders on Special Sentence are supervised by the Community-Based Corrections (CBC) District Departments.
- Sex offenders can be revoked from probation, parole, or Special Sentence supervision for technical violations or new convictions. The average length of stay shown in the table below does not include time served for revocations.
- Sex offenders sentenced to prison are required to participate in a Sex Offender Treatment Program (SOTP). The table below does not include the average length of stay in treatment or the average daily cost of State prison-based SOTP.
- According to the Justice Data Warehouse (**JDW**), the Criminal and Juvenile Justice Planning Division (**CJJPD**) of the Department of Human Rights (**DHR**), and the Department of Corrections (**DOC**), the following are estimates for sentencing, length of stay under supervision, and costs for sex offenders.

### Corrections Supervision Information for Sex Offenders

	Percent Sentenced to State Prison	Avg Length of Stay in Prison	Marginal Cost per Day	Avg Length of Stay on Parole Including Special Sentence	Percent Sentenced to Probation	Avg Length of Stay on Probation Including Special Sentence	Percent Sentenced to CBC Res. Facility	Avg Length of Stay in CBC Res. Facility	Marginal Cost per Day	Percent Sentenced to County Jail	Avg Length of Stay in County Jail	Marginal Cost per Day
Ser. Misd.	15.7%	6.9 months	\$ 18.92	26.8 months	61.8%	60.0 months	3.4%	5.8 months	\$ 11.55	25.8%	102 days	\$ 15.00
Agg. Misd.	31.5%	12.9 months	\$ 18.92	26.8 months	58.2%	76.3 months	9.6%	5.8 months	\$ 11.55	15.7%	79 days	\$ 15.00
Class D Felony	47.2%	32.0 months	\$ 18.92	26.8 months	51.6%	76.3 months	8.8%	5.8 months	\$ 11.55	0.0%	0	0.0%

- The percent sentenced to State prison, probation, CBC residential facility, or county jail is 106.7% for serious misdemeanants, 115.0% for aggravated misdemeanants, and 107.6% for Class D felons. The disposition of sentences exceeds 100.0% because certain offenders are sentenced to a CBC residential facility or county jail, and then probation supervision.
- Generally, offenders convicted of a sex offense and supervised by a CBC District Department are placed on intensive supervision and gradually progress to normal supervision if they are successful. These offenders are usually placed on electronic monitoring for a period of their supervision as permitted in Iowa Code section [692A.124](#). Sex offenders are required to participate in an SOTP while under CBC supervision. The table below shows supervision lengths of stay and costs that are unique to sex offenders convicted of misdemeanors and Class D felonies.

### Information on Sex Offender Supervision in CBC District Departments

Avg Length of Stay on Special Sentence Only	Avg Length of Stay on Intensive Supervision While on Parole or Probation	Avg Daily Cost of Intensive Supervision for Sex Offenders	Avg Length of Stay on Normal Parole Supervision	Avg Daily Cost for Probation or Parole	Avg Length of Stay on Electronic Monitoring	Avg Daily Cost of Electronic Monitoring Device	Avg Length of Stay in SOTP CBC Only	Avg Daily Cost for SOTP CBC Only
54.9 months	42 months	\$12.80	34.3 months	\$4.26	26.4 months	\$3.15	38.8 months	\$5.08

- Some offenders receive a county jail sentence without a probation sentence. The special sentence starts once the county jail sentence is served. They are then placed on CBC supervision.
- The [Fifth](#) CBC District Department's State General Fund appropriation includes funds for the statewide command center and electronic monitoring system. Electronic monitoring devices range in cost by type of device. Global Positioning System (GPS) Active devices are \$3.15 per day while GPS Passive devices are \$3.10 per day. Refer to the [Electronic Monitoring Report](#) issued by the DOC in October 2014 and published on the General Assembly's [website](#) for additional information.
- Approximately 81.2% of the marginal cost per day for CBC residential facilities is paid from local sources, such as offender rent.
- The cost per case for the [Indigent Defense Fund](#) is \$600 for a serious misdemeanor and \$1,200 for an aggravated misdemeanor or a Class D felony.
- The average cost per case for the [Judicial Branch](#) is \$213 for a serious or aggravated misdemeanor and \$436 for a Class D felony. These estimates include the average time spent on all cases of the given type regardless of how the cases are disposed. Most cases are disposed by plea bargaining; only a small percentage is disposed by bench or jury trials. See the *Fiscal Topic, Jury Trials* published by the LSA in August 2013 for background information and statistics.

**Minority Data Information:** The two offenders convicted of sexual exploitation in FY 2014 were white males.

**Assumptions**

**Correctional and Fiscal Information**

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, plea bargaining, and other criminal justice policies and practices will not change over the projection period.
- The law will become effective July 1, 2015. A lag effect of six months is assumed from the effective date of [HF 6](#) as amended by [H-1023](#) to the date of first entry of affected offenders into the correctional system.
- Some criminal cases that do not meet the definition of sexual exploitation and are dismissed under current law will result in convictions under [HF 6](#) as amended by [H-1023](#). Approximately 50.0% of the dismissed/acquitted charges will result in convictions.
- Approximately 50.0% of the defendants will be indigent.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$15.00 per day.

**Minority Data Information:** The impact on minorities will be consistent with current data.

**Summary of Impacts**

**Correctional Impact**

The correctional impact on the State prison system, CBC offender population, and county jails is expected to be minimal under the provisions of [HF 6](#) as amended by [H-1023](#).

There will be an estimated 19 defendants annually charged with sexual exploitation. Of these, five will be convicted. On an annual basis, there will be two new Class D felons, two new aggravated misdemeanants, and one serious misdemeanant. The table below shows the annual sentences expected to be imposed by offense class for sexual exploitation. One aggravated misdemeanant is expected to receive a sentence to county jail and then probation supervision.

**Annual Sentences by Offense Class Conviction**

Offense Class	State		County	
	Prison	Probation	Jail	Total
Ser. Misd.	0	1	0	1
Agg. Misd.	0	2	1	3
Class D Felon	2	0	0	2
<b>Total</b>	<b>2</b>	<b>3</b>	<b>1</b>	<b>6</b>

The State prison population is expected to increase by one offender in FY 2016, two offenders in FY 2017, 3 offenders in FY 2018, and four annually thereafter. There will be one county jail admission annually, for about 79 days on average. The CBC offender population is expected to increase by two offenders in FY 2016, seven offenders in FY 2017, 12 offenders in FY 2018, 23 offenders in FY 2019, and 28 offenders in FY 2020. Probation caseloads are expected to stabilize at about 28 offenders annually after FY 2020 due to the increased length of stay under supervision for sex offenders (26.8 months to 76.3 months).

**Minority Impact:** There is no minority impact expected under [HF 6](#) as amended by [H-1023](#).

## Fiscal Impact

The fiscal impact of [HF 6](#) as amended by [H-1023](#) is estimated to be \$22,700 in FY 2016 and \$96,200 in FY 2017. The table below shows the fiscal impact by funding source. County jail operation costs are expected to be about \$1,200 annually. State prison system costs are expected to level off in FY 2019 at about \$28,000 per year. The costs for CBC are expected to level off in FY 2020 at approximately \$116,000 annually.

### Estimated Fiscal Impact by Funding Source

	FY 2016			FY 2017		
	County Budgets	State General	Total	County Budgets	State General	Total
		Fund			Fund	
Judicial Branch	\$ 0	\$ 3,000	\$ 3,000	\$ 0	\$ 6,000	\$ 6,000
Indigent Defense	0	10,000	10,000	0	21,000	21,000
Jail	1,200	0	1,200	1,200	0	1,200
State Prison	0	3,400	3,400	0	14,000	14,000
CBC	0	5,100	5,100	0	54,000	54,000
Total	<u>\$ 1,200</u>	<u>\$ 21,500</u>	<u>\$ 22,700</u>	<u>\$ 1,200</u>	<u>\$ 95,000</u>	<u>\$ 96,200</u>

## Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Department of Corrections  
Office of the State Public Defender  
Office of the State Court Administrator

/s/ Holly M. Lyons

March 16, 2015

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The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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